

REMARKS

This Amendment is being filed in response to the Office Action mailed February 4, 2009 which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-6 remain in this application, where claims 7-20 had been previously canceled without prejudice. Claim 1 is independent.

In the Office Action, the Examiner objected to claims 2-5 for a certain informality. In response, claims 2-5 have been amended in accordance with the Examiner's suggestion. It is respectfully submitted that the objection to claims 2-5 has been overcome and withdrawal of this objection is respectfully requested.

In the Office Action, claims 1 and 4-6 are rejected under 35 U.S.C. §102(e) over U.S. Patent Application Publication No. 2003/0227846 (Lee). Further, claims 2-3 are rejected under 35 U.S.C. §103(a) over Lee in view of U.S. Patent Application Publication No. 2003/0137910 (Ueda). It is respectfully submitted

that claims 1-6 are patentable over Lee and Ueda for at least the following reasons.

Lee is directed to a multi-layer recording medium for storing write protection information, and a recording method and a write protection method thereof. As specifically recited in paragraph [0025] and shown in FIG 1, "[t]he layer 0 includes a lead-in zone LI formed at the inner perimeter of the layer 0, a lead-out zone LO formed at the outer perimeter of the layer 0, and a user data zone formed between the lead-in zone LI and the lead-out zone LO." (Emphasis added) FIG 2 shows that the lead-in and lead-out zones include various other zones.

It is respectfully submitted that Lee does not disclose or suggest the present invention as recited in independent claim 1 which, amongst other patentable elements, recites (illustrative emphasis provided):

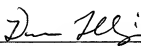
said Optimum Power Control procedure being performed in variably located OPC-areas on the disk that are variably located on the first layer and the second layer, at least one of the variably located OPC-areas is positioned on the second layer and located relatively close to a radius where the data stream switches from the first layer to the second layer.

Performing OPC procedure in variably located OPC-areas, where one OPC-area is positioned on the second layer and is located relatively close to a radius where the data stream switches from the first layer to the second layer is nowhere disclosed or suggested in Lee. Ueda is cited to allegedly show other features and do not remedy the deficiencies in Lee. Rather, Lee discloses fixed lead-in and lead-out zones that include other zones, where the fixed lead-in and lead-out zones are located at inner and outer perimeters of a layer. Accordingly, it is respectfully submitted that independent claim 1 is allowable. In additions, claims 2-5 are allowable at least based on their dependence from independent claim 1.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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